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Finnegan, Henderson, Farabow, Garrett and Dunner LLP  
1300 I Street NW  
Washington DC 20005

In re Application No. 10/606,342

Filed: June 25, 2003

Title of Invention: HEXAHYDROFURO[2,3-B]  
FURAN-3-YL-N-{3-[(1,3-BENZODIOXOL-5--  
YLSULFONYL)(ISOBUTYL)AMINO]-1--  
BENZYL-2-HYDROXYPROPYL}CARBAMATE  
AS RETROVIRAL PROTEASE INHIBITOR

Applicant: Wang, et al.

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**MAR 18 2005**

**OFFICE OF PETITIONS**

This is in response to the "Powers of Attorney with Revocation," filed February 2, 2005, and December 2, 2003.

The powers of attorney are not accepted.

37 CFR 1.32(b) states:

(b) A power of attorney must:

- (1) Be in writing;
- (2) Name one or more representatives in compliance with (c) of this section;
- (3) Give the representative power to act on behalf of the principal; and
- (4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

37 CFR 1.36(a) provides:

(a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant. A power of attorney to the patent practitioners associated with a Customer Number will be treated as a request to revoke any powers of attorney previously given. Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth in § 1.17(h). A registered patent attorney or patent agent will be notified of the revocation of the power of attorney. Where power of attorney is given to the patent practitioners associated with a Customer Number (§ 1.32(c)(2)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to all of the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application (§ 1.33) in effect before the revocation. An assignment will

not of itself operate as a revocation of a power previously given, but the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in § 1.32(b).

The Revocation and Power of Attorney, filed December 2, 2003, does not comply with 37 CFR 1.32 and 1.36 because it is not signed by the assignee of the entire interest of the applicant, or the accompanied by the showing required by 37 CFR 1.36(a) and the fee set forth in 37 CFR 1.17(h). The assignment attached to the Power of Attorney shows that Tibotec Pharmaceuticals, Ltd., is the assignee of joint inventor Piet T.B.P. Wigeninck, but not the remaining three inventors. Accordingly, Tibotec is not the assignee of the applicant and cannot act alone in signing a Power of Attorney.

According to Office Assignment records, the remaining three inventors have assigned their interest to the Department of Health and Human Services, National Institutes of Health. The Revocation and Power of Attorney, filed February 2, 2005, does not comply with 37 CFR 1.32 because assignment to NIH does not represent the entire right, title and interest of the applicant, because the interest of joint inventor Wigeninck and Tibotec Pharmaceuticals, Ltd. is not included. NIH also cannot act alone in signing a power of attorney on behalf of the assignee of the applicant.

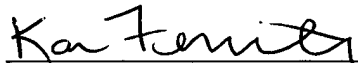
The Office has permitted a split power of attorney, with some of the inventors appointing one attorney (or set of attorneys) and the remaining inventors (or assignee(s) of the inventors appointing another attorney. To obtain such a split power of attorney, applicant will need to file a petition under 37 CFR 1.36(a), with a showing of sufficient cause, and payment of the petition fee set forth in § 1.17(h). See Revision of Power of Attorney and Assignment Practice, 1283 OG 148 (June 22, 2004); 69 Fed. Reg. 29865, 75 (May 26, 2004) (Comment 15). With such a split power of attorney, both attorneys (or sets of attorneys) will need to sign each correspondence on behalf of the applicant. Because Tibotec and NIH did not together revoke the previously-granted power of attorney and appoint a new power of attorney, or petition under 37 CFR 1.36(a) to allow appointment of a split power of attorney, the power of attorney filed by Tibotec and NIH cannot be accepted.

Furthermore, to comply with 37 CFR 1.32, the power of attorney must either name ten or fewer patent practitioners, or appoint those patent practitioners associated with a single Customer Number. The Power of Attorney signed by Tibotec attempts to give power of attorney to the practitioners associated with Customer Number 23377, whereas the Power of Attorney signed by NIH attempts to give Power of Attorney to the Practitioners Associated with Customer Numbers 05318 and 45511. Since the Power of Attorney papers do not give Power of Attorney to the Patent Practitioners associated with a single Customer Number, the papers do not comply with 37 CFR 1.32(c)(2). When an applicant, or an assignee of the applicant, attempts to designate two Customer Numbers for the same purpose, the Office will enter the first Customer Number. In this situation, because neither Power of Attorney was properly signed, the change will not be entered. (For additional information on power of attorney, see <http://www.uspto.gov/web/offices/pac/dapp/poafaqs.htm>).

The Applicant (all of the inventors) or the assignees of the applicant should submit a new Power of Attorney to a single Customer Number, or to a list of ten or fewer patent practitioners. In addition, a change of address should be filed designating a single Customer Number for the address. Since the patent practitioners associated with this Customer Number will be the patent practitioners able to access the Private Patent Application Information Retrieval (Private PAIR) system, the Office strongly recommends that all practitioners who will be associated with this

application be associated with the Customer Number used for correspondence address. Otherwise, those patent practitioners who are not associated with the Customer Number used for the Correspondence Address will not have access to Private PAIR, and will not be able to view the Image File Wrapper for the application, obtain detailed Patent Term Adjustment information, submit a bibliographic data change request through Private PAIR, or have the reminder notices about recently mailed correspondence, or any of the other useful features of Private PAIR.

Telephone inquiries related to this letter should be directed to the undersigned at (571) 272-7744.



Karin Ferriter, Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Assistant Commissioner for Patent Policy and Projects

cc: NATIONAL INSTITUTES OF HEALTH  
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